



## DEPARTMENT OF TRANSPORTATION

## DEPARTMENT OF ENERGY

[Docket No. FHWA-2021-0015]

### Buy America Request for Information

**AGENCY:** U.S. Department of Transportation (DOT), U.S. Department of Energy. (DOE).

**ACTION:** Notice; request for information (RFI).

**SUMMARY:** Reshaping the United States transportation system with electric vehicle (EV) charging infrastructure is an important part of the solution to the climate crisis. EV charger manufacturing, assembly, installation, and maintenance all have the potential to not only support policies on sustainability and climate, but also to create good-paying, union jobs in the United States. This RFI is intended to gather information on shifting manufacturing and assembly processes to the United States considering the bold investment planned in EV charging. DOT and DOE (the Agencies) are interested in hearing from the public, including stakeholders (such as State and local agencies, the EV charger manufacturing industry, component suppliers, labor unions, related associations, and transportation advocates), on the availability of EV chargers manufactured and assembled in the United States, including whether they comply with applicable Buy America requirements.

**DATES:** Comments must be received on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** To ensure that you do not duplicate your docket submissions, please submit all comments by only one of the following ways:

- *Federal eRulemaking Portal:* Go to [www.regulations.gov](https://www.regulations.gov) and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200

New Jersey Ave. SE, W12-140, Washington, DC 20590-0001.

- *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.
- *Instructions:* You must include the agency name and the docket number, FHWA-2021-0015, at the beginning of your comments. All comments received will be posted without change to [www.regulations.gov](http://www.regulations.gov), including any personal information provided.
- *Privacy Act:* Except as provided below, all comments received into the docket will be searchable by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477) or at [www.regulations.gov/privacy](http://www.regulations.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** For questions about this RFI, please contact Mr. Brian Hogge, FHWA Office of Infrastructure, 202-366-1562, or via e-mail at [Brian.Hogge@dot.gov](mailto:Brian.Hogge@dot.gov) For legal questions, please contact Mr. Patrick C. Smith, FHWA Office of the Chief Counsel, 202-366-1345, or via e-mail at [Patrick.C.Smith@dot.gov](mailto:Patrick.C.Smith@dot.gov). Office hours for FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

#### **SUPPLEMENTARY INFORMATION:**

##### **Electronic Access**

A copy of this Notice, all comments received on this Notice, and all background material may be viewed online at <https://www.regulations.gov> using the docket number listed above. Electronic retrieval help and guidelines are also available at <https://www.regulations.gov>. An electronic copy of this document also may be

downloaded from the Office of the Federal Register's Website at:

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### **Confidential Business Information**

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this RFI contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this RFI, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343 and 10 CFR 1004.11, you may ask DOT and DOE to give confidential treatment to information you give to the Agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as "Confidential"; (2) send the Agencies, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, the Agencies will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this RFI. Submissions containing CBI should be sent to Mr. Brian Hogge, FHWA, 1200 New Jersey Avenue SE, HICP-20, Washington, DC 20590. Any comment submissions that the Agencies receive that are not specifically designated as CBI will be placed in the public docket for this matter.

### **General Summary**

The President has laid out a bold vision for making transformative transportation investments to support job growth and reshape the U.S. transportation system to support a sustainable energy and climate future. The President has set the ambitious goal of

building a new national network of 500,000 EV chargers by 2030.<sup>1</sup> The Infrastructure Investment and Jobs Act (IIJA) includes \$7.5 billion to build out electric vehicle charging across the nation to make the bold vision a reality. EV charger manufacturing, assembly, installation, and maintenance all have the potential to not only support the President's policies on sustainability and climate, but also to create good-paying, union jobs in the United States. Currently, the Agencies have limited information on the manufacturing and assembly of EV chargers, such as whether EV chargers manufactured in the United States can comply with applicable Buy America requirements.

This RFI is intended to: (i) help the Agencies better understand whether and to what extent domestic sourcing is available now or may be possible in the future for EV charging equipment and components; (ii) ensure domestic manufacturers have the opportunity to identify any EV charger meeting applicable Buy America requirement; (iii) ensure domestic manufacturers have the opportunity to identify any EV charger that could meet a domestic final assembly condition, and identify the portion of components that meet a domestic final assembly condition; and (iv) highlight benefits of shifting manufacturing and assembly processes to the United States considering the bold investment planned in this area.

The investment in EV chargers in the Bipartisan Infrastructure Deal (Infrastructure Investment and Jobs Act, H.R. 3684, 117th Cong. (2021)) (hereinafter referred to as the BID), can create good-paying, union jobs in America for installation and maintenance that cannot be outsourced. Moreover, domestic jobs may also be created to manufacture domestically available components of those systems.

The Agencies are seeking information on the potential benefits to the domestic EV industry of bringing more EV charging equipment manufacturing and assembly to the

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<sup>1</sup> White House Fact Sheet: Biden Administration Advances Electric Vehicle Charging Infrastructure (Apr. 22, 2021), available at <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-biden-administration-advances-electric-vehicle-charging-infrastructure/>

United States. By shifting manufacturing and assembly processes to the United States for EV chargers as soon as is practicable, and making necessary arrangements with vendors to obtain appropriate certifications showing Buy America compliance for steel and iron components, domestic manufacturing firms have potential to obtain significant first-adopter benefits from the bold investments planned in EV charging infrastructure. Due to FHWA's existing Buy America requirement, if only one domestic manufacturer produces an EV charger meeting its requirement, States that use Federal-aid funds would have to use that manufacturer assuming it can meet demand. The Agencies, through this RFI, aim to gather data and information on domestic manufacturing of EV chargers, including understanding the capability of maximizing the domestic content of EV chargers and opportunities for American workers to manufacture, assemble, install, and maintain them.

Through this RFI, the Agencies seek information regarding the availability of EV chargers manufactured and assembled in the United States, including whether they comply with applicable Buy America requirements. Although the Agencies are not aware of any EV chargers currently able to meet applicable Buy America requirement for steel and iron, the Agencies are interested in promptly obtaining more information on this issue and others set forth below. Obtaining this information promptly is necessary for the Agencies to determine how best to simultaneously support the President's policies on climate, create a national network of EV charging infrastructure, and comply with Buy America requirements.

## **Background**

In January 2021, the President issued Executive Order (E.O.) 14005, titled "Ensuring the Future is Made in All of America by All of America's Workers." 86 FR 7475 (Jan. 28, 2021). E.O. 14005 states that the United States Government "should, consistent with applicable law, use terms and conditions of Federal financial assistance awards and Federal procurements to maximize the use of goods, products, and materials

produced in, and services offered in, the United States.” The Agencies are committed to ensuring strong and effective Buy America implementation consistent with E.O. 14005. Obtaining information through this RFI is essential to determine how the Agencies might spur and incentivize domestic manufacturing of EV chargers, including EV chargers that meet applicable Buy America requirement for steel and iron. At the same time, the Agencies must also consider how to ensure that EV chargers are widely available in the immediate future for FHWA-funded projects in the United States in support of policies to address the climate crisis, as discussed below.

In January 2021, the President also issued E.O. 14008, titled Tackling the Climate Crisis at Home and Abroad. 86 FR 7619 (Feb. 1, 2021). The President has directed the Federal government to use the full capacity of its agencies and implement a Government-wide approach to address the climate crisis throughout the economy. This approach includes deployment of clean energy technologies and infrastructure. In the context of EV charging infrastructure, the White House has also expressed the goal to accelerate deployment of electric vehicles and charging stations, which will create good-paying, union jobs and move us forward on the path toward a clean transportation future.<sup>2</sup>

EVs, which produce zero tailpipe emissions and can be powered by clean, renewable energy instead of gasoline or diesel fuel, are an important part of the solution to the climate crisis. The President’s goal of building a new national network of 500,000 EV chargers by 2030 is a key strategy for reducing greenhouse gas emissions.

### **Buy America Requirements Under Title 23, United States Code, and the BID**

The existing FHWA Buy America requirement, set forth at 23 U.S.C. 313 and 23 CFR 635.410, requires that all steel and iron that is permanently incorporated into a project must be manufactured in the United States unless a waiver is granted, including

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<sup>2</sup> White House *FACT SHEET: Biden Administration Advances Electric Vehicle Charging Infrastructure*, Apr. 22, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-biden-administration-advances-electric-vehicle-charging-infrastructure/>.

steel and iron components of a manufactured product. This requirement applies to the obligation of Title 23 U.S.C. funds. For all steel or iron materials to be used in projects that involve the obligation of Federal funds, all manufacturing processes, including application of a coating, must occur in the United States. Coating includes all processes which protect or enhance the value of the material to which the coating is applied. Such projects involve both the acquisition and installation of such equipment. Additionally, the FHWA's Buy America requirement applies to all contracts regardless of the funding source if any contract within the scope of a determination under the National Environmental Policy Act (NEPA) involves an obligation of Federal funds. *See* 23 U.S.C. 313(g). DOT and DOE are also committed to ensuring strong and effective Buy America implementation consistent with E.O. 14005. E.O. 14005 calls for maximizing domestic content and services using terms and conditions of Federal financial assistance awards and Federal procurements.

FHWA currently applies its standard for steel or iron materials under 23 CFR 635.410 to the steel or iron components of predominantly steel or iron manufactured products.<sup>3</sup> For steel and iron components of predominantly steel and iron products, FHWA requires that "all manufacturing processes, including application of a coating, for these materials must occur in the United States." 23 CFR 635.410(b)(1)(ii). For manufactured products that are not predominantly steel and iron, the FHWA currently has a nationwide general waiver from Buy America requirements, which has been in effect since 1983. 48 FR 53099 (Nov. 25, 1983).

In addition to existing FHWA Buy America requirements, Title IX, Subtitle A of the BID, entitled "Build America, Buy America" (BABA), provides that not later than 180 days after the date of enactment of the BID, funds made available for a Federal

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<sup>3</sup> *See* <https://www.fhwa.dot.gov/programadmin/contracts/122297.cfm>; and Question #12, at [https://www.fhwa.dot.gov/construction/contracts/buyam\\_qa.cfm](https://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm).

financial assistance program for infrastructure may not be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States. BID, at § 70914(a).

The compliance standard for iron or steel products in the BID at § 70912(6)(A) is similar to the FHWA standard for steel or iron materials at 23 CFR 635.410(b)(1). Also, the BID adds a new category of materials that are covered by Buy America. Specifically, the BID extends Buy America coverage to “construction materials.” BID, at § 70912(6)(C). The bill also provides that not later than 180 days after the date of enactment of BID, the Director of the Office of Management and Budget (OMB) must issue standards that define the term “all manufacturing processes” in the case of construction materials. BID, at § 70915(b)(1). In issuing the standards, OMB must ensure that each manufacturing process required for the manufacture of the construction material and the inputs of the construction material occurs in the United States. BID, at § 70915(b)(2). OMB must also take into consideration and seek to maximize the direct and indirect jobs benefited or created in the production of the construction material. *Id.*

### **Request for Information**

Through this RFI, the Agencies are soliciting information and suggestions from the public and a broad array of stakeholders across public and private sectors that may be familiar with or interested in manufacturing and assembly of EV chargers and their deployment as part of Federal-aid construction projects.

### **Request to Specify EV Charger Type**

In answering the questions below, the Agencies ask that you indicate in your written comments which question(s) you are answering and to specify in each answer what type of EV charger you are discussing. For example, specify what level of charging is it used for, whether it uses the SAE J1772 connector for AC charging (also known as the J-plug), whether it provides DC Fast Charging, whether it uses the Combined

Charging System (CCS) connector, whether it uses the CHAdeMO connector, and other relevant information.

### **General Questions on EV Chargers**

1. Identify all EV charger manufacturers currently selling, manufacturing, or operating in the United States, of which you are aware.
2. Identify all such EV charger manufacturers of which you are aware that can either meet FHWA's Buy America requirement or can currently assemble EV chargers in the United States to meet a domestic final assembly condition. For those that can meet a final assembly condition, please identify the percentage of components manufactured in the United States (if known).
3. What is the total cost of a typical EV charger?
4. How much does cost vary for EV chargers? Why does the cost vary?
5. What is the average delivery timeline for an EV charger?
6. How much does delivery time vary for EV chargers? Why does the delivery time vary?
7. For manufacturers: what type(s) of EV chargers are currently produced or likely to be produced in the near future?

### **Manufacturer Ability to Meet FHWA's Existing Buy America Requirement**

8. Are there existing EV chargers that meet FHWA's existing Buy America requirement for steel and iron? (Yes or No)
9. If you answered yes to the preceding question:
  - a. How many EV chargers meeting FHWA's existing Buy America requirement for steel and iron can be manufactured per year?
  - b. What is the price typically paid for the steel and iron for used in EV chargers?

- c. What percent of the total price is typically representative cost of the steel and iron used in EV chargers?
  - d. Can the origins of the steel and iron used in your charger be certified by documentation? If so, how?
  - e. What is the typical delivery timeline for EV chargers?
10. For those EV chargers currently manufactured that cannot meet FHWA's Buy America requirement, what steps can be taken to provide EV chargers that meet FHWA's existing Buy America requirement? How long might it take to undertake those steps? What is the volume of EV chargers that could be shifted to manufacture in compliance with FHWA's Buy America requirement? Can that volume be ramped up over time?

**Manufacturer Ability to Meet Domestic Final Assembly Condition for EV Chargers**

11. Are there existing EV chargers that are currently assembled in the United States that could meet a domestic final assembly condition? (Yes or No).
12. If you answered yes to the preceding question, provide details about domestic final assembly. Also explain whether this includes domestic final assembly of all EV charger components and whether the assembled EV charger is ready for installation and use.
13. If you answered yes to Question 12:
- a. How many EV chargers assembled in the United States (meeting a domestic final assembly condition) currently meet the domestic final assembly requirement?
  - b. How many EV chargers assembled in the United States (meeting a domestic final assembly condition) could be expected to be provided annually each year between 2022 and 2030?

- c. What would be the likely price of EV chargers meeting the domestic final assembly requirement?
- d. What is the likely timeline for delivery of those EV chargers?
- e. What percentage of the components used in an EV charger assembled in the United States are themselves made in the United States? Of the components made in the United States, what percentage of those are iron and steel as opposed to other parts?

### **EV Charger Components and Subcomponents**

- 14. Identify each component and subcomponent typically contained in an EV charger (or for manufacturers, in the EV chargers you produce).
- 15. What materials do the components and subcomponents consist of (e.g., iron, steel, non-ferrous metals, semiconductors, plastics)?
- 16. Provide information on the manufacturing processes for each component and subcomponent, including where the manufacturing processes occur.
- 17. Provide information on the assembly steps for each component or subcomponent including where the assembly steps occur (if the answer differs from the preceding question).
- 18. Provide information on the cost of each component or subcomponent.
- 19. Provide information on the domestic content of each component or subcomponent, including the amount and percentage of domestic content (relative to foreign content). If this cannot be traced, explain why.

### **Ability to Maximize Domestic Content, Services, and Labor**

- 20. Provide information on how the domestic content of EV chargers (including their components, subcomponents, or component bundles) could be maximized (even if full Buy-America compliance is not possible).

21. Provide information on how domestic services and labor used in the manufacturing and assembly of EV chargers (including their components, subcomponents, or component bundles) could be maximized (even if full Buy-America compliance is not possible).

**Authority:** 23 U.S.C. 313; Pub. L. 110-161; 23 CFR 635.410.

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